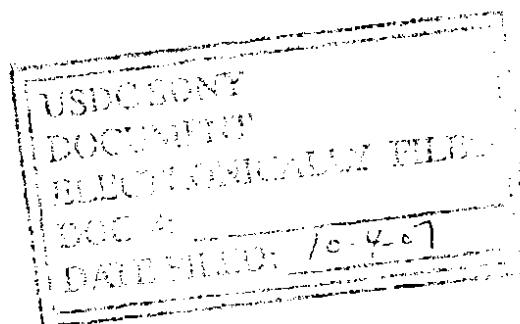


Koenigs

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: :
Fosamax Products Liability Litigation : 1:06-md-1789 (JFK)

-----x
This Document Relates to: :
Mary MacKay :
v. Merck & Co., Inc. :

-----x
Case No: 1:07-cv-6754-JFK
-----x

STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Mary MacKay and Defendant Merck & Co., Inc., ("Merck") through their respective undersigned counsel, as follows:

1. This case having been resolved upon the agreement of Plaintiff to voluntarily dismiss without prejudice her claims against Merck in the above-captioned case and the agreement of Merck not to seek from Plaintiff its fees and costs, this case is hereby dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii).
2. Plaintiff further agrees to re-file any suit based on any similar claims related to Fosamax against Merck, any of Merck's subsidiaries, agents, distributors, employees, sales representatives, or against any pharmacy in this Court.
3. Each party is to bear its own costs and attorneys' fees.

Dated: ^{October} September, 2007

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By

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SO ORDERED:

Hon. John F. Keenan

John F. Keenan 10/4/07